



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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9 November 2020

Phillip Sweeney

By email only: foi+request-6832-e498f7ff@righttoknow.org.au

Dear Mr Sweeney

Freedom of Information Request No. FOI 207-2020

I refer to your request for access to documents made under the *Freedom of Information Act 1982 (FOI Act)* dated 24 October 2020 in which you requested access to documents in the possession of the Australian Securities and Investments Commission (**ASIC**).

Your request received by ASIC was as follows:

*'The document I seek is a copy of the **letter that confirms the appointment** of James Shipton to the role of Chairman of ASIC' (my emphasis added)*

Decision

I am the authorised decision-maker for the purposes of section 23 of the Act and this letter gives notice of my decision.

A search of ASIC's records was conducted. My decision is to refuse your request for access to the documents, as no documents exist. The reasons for my decision are set out below.

Information considered

In reaching my decision, I have considered the following:

- the FOI Act, in particular, s 24A;
- the Australian Information Commissioner's FOI Guidelines issued under s 93A of the FOI Act (**FOI Guidelines**);
- the terms of your request; and
- searches conducted by ASIC staff

Section 24A of the FOI Act

Section 24A of the FOI Act relevantly provides:

Document lost or non-existent

- (1) An agency or Minister may refuse a request for access to a document if:
- (a) all reasonable steps have been taken to find the document; and

- (b) the agency or Minister is satisfied that the document:*
- (i) is in the agency's or Minister's possession but cannot be found; or*
 - (ii) does not exist.*

I have consulted with staff in ASIC's Commission Counsel and People and Development teams to assist with the search for the document. The teams have undertaken a search of ASIC's records and have not located the document falling within the scope of your request.

My decision is therefore to refuse your request for access to the document falling within the scope of your request under section 24A of the FOI Act on the basis that all reasonable steps have been taken to find the document and I am satisfied that no such document exists in ASIC's possession.

Review rights

In the event that you are dissatisfied with the decision:

1. You may, within 30 days after the day on which you have been notified of this decision, apply in writing to ASIC for an internal review of my decision under section 54B of the FOI Act. This review is an independent process conducted by a Senior Freedom of Information Officer at ASIC. This request should be addressed to me or to the Senior Manager, Freedom of Information, GPO Box 9827, Brisbane QLD 4001 or by email to foirequest@asic.gov.au.
2. You may within 60 days after the day on which you have been notified of this decision, apply in writing to the Office of the Australian Information Commissioner (OAIC) for a review of my decision under section 54N of the FOI Act. You may contact the OAIC by post at GPO Box 5218 Sydney NSW 2001, by email at foidr@oaic.gov.au or by telephone on 1300 363 992.

Right to complain

You may lodge a complaint with the OAIC in relation to the conduct of ASIC in the handling of this request. You may contact the OAIC as set out above.

If you have any questions or wish to discuss, please contact me on (03) 9280 4156 or on Jessica.Zhang@asic.gov.au.

Yours sincerely

Jessica Zhang

Freedom of Information Officer

(Authorised decision-maker pursuant to subsection 23(1) of the FOI Act)